IN THE HIGH COURT OF JUDICATURE OF BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUMMONS FOR JUDGEMENT NO. 154 OF 2004

IN

SUMMARY SUIT NO. 3291 OF 2003

Atmaram Leasing Co.Pvt.Ltd. .. Plaintiff

versus

Prabhudas Hirji & Co. & ors. .. Defendants

...

Ms.Laxmi i/b Ms.Rekha Shukla for the plaintiff.

Mr.A.A. Jaykar i/b Khaitan & Jaykar for the defendant.

CORAM : D.G. KARNIK,J.

DATED : 7th February 2005.

P.C.:

1. Heard the learned counsel for the plaintiff who tenders affidavit of service sworn in by Kishor Waghela on 19th January 2005. Shri Jaykar instructed by Khaitan & Jaykar appearing for the defendant reports no instructions. No other counsel duly

instructed is present on behalf of the defendant. The learned counsel for the plaintiff also tenders the original documents. Documents are taken on record and collectively marked Exhibit-A.

2. Despite service of Summons for Judgement, the defendants have not applied for leave to defend nor they have filed any affidavit in reply. In the circumstances, the averments made in the plaint are deemed to be admitted. The plaintiff is also entitled to a decree under clause (a) of sub rule (6) of Rule 3 of Order 37 of the Code of Civil Procedure.

3. The plaintiff has filed on record the original bills of exchange dated 4th July 2002. The bills of exchange are drawn by the defendant no.1 and are accepted by the defendant no.2. The defendant nos.3 to 6 are the partners of defendant no.1 as well as defendant no.2. Since no affidavit in reply has been filed denying the execution of bills of exchange, the plaintiff is entitled to a decree as prayed. Hence, Summons for Judgement is made absolute and the suit of the plaintiff is decreed in terms of prayer clause of the plaint.

D.G. KARNIK, J